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EXPRESS MAIL NO. EV 456 933 097 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Juan Yguerabide

Confirmation No. 5423

Serial No. 09/931,729

Group Art Unit: 1641

Filed: August 16, 2001

Examiner: Lam, Ann Y

For: Analyte Assay Using Particulate Labels

Attorney Docket No. 11032-020-999
[107168-999019]

RESPONSE TO ELECTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the species Election Requirement mailed June 3, 2004, in connection with the above-captioned application, Applicants hereby elect to prosecute the species identified by the Examiner as: "1) an apparatus wherein light from the light source illuminates the sample without first passing through the sample device". Claims 115-147 and 150 read on the elected species. Applicants understand that their election of species is being made solely to facilitate examination of the application, and that they are entitled to consideration of additional species upon allowance of a generic claim. The examiner has identified claims 148, 149 and 152-161 as generic.

Submitted concurrently herewith is a Petition to Extend Time under 37 C.F.R. § 1.136(a) extending the period for response by three (3) months to and including October 3, 2004, with the appropriate fee.

CONCLUSION

Applicants respectfully request examination on the merits of the elected claims. Applicants believe no fee in addition to the fee for the extension of time is due in connection with this response. However, the Commissioner is authorized to charge all required fees, fees under 37 C.F.R. § 1.17 and all required extension of time fees, or credit any overpayment, to Jones Day U.S. Deposit Account No. 503013.

Date

September 22, 2004

Respectfully submitted,

By:  Richard E. Ballard

46,078
Reg. No.

for: Laura A. Coruzzi (Reg. No. 30,742)

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